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David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-22-90159

ORDER

An individual has filed a Complaint against a United States magistrate judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

As an initial matter, after Complainant filed his Complaint, he filed two supplemental statements. The filing of the supplemental statements is permitted. *See* 11th Cir. JCDR 6.7.

Background

The record shows that in November 2021 Complainant filed a *pro se* employment-discrimination action against a county sheriff's office, and several months later, he filed an amended complaint. In May 2022, the defendant filed a motion to dismiss. In November 2022, the Subject Judge issued a report recommending that

the defendant's motion to dismiss be granted and that Complainant's amended complaint be dismissed without prejudice, finding Complainant did not timely file his charge with the Equal Employment Opportunity Commission. Complainant filed a notice of appeal.

Complaint

Complainant first states that he was falsely accused of being arrested for a drug-related offense, and a county sheriff's office "padded" his arrest record with erroneous and false information. Complainant states he feels the Subject Judge "allowed this type of practice" to continue in a different county "because of the (inaction) this court has demonstrated," and he states he believes the inaction is based upon his status as a *pro se* litigant. Complainant asserts the Subject Judge disagreed that a county sheriff's office acted intentionally, when he submitted evidence showing it was intentional. Complainant contends the Subject Judge violated his constitutional rights due to his status as a *pro se* litigant and the Subject Judge's "prejudicial bias based upon race and character assassination." He also takes issue with the actions of individuals other than the Subject Judge, and he attached documents to his Complaint.

Supplements

Complainant's first supplemental statement is a copy of the notice of appeal he filed in the above-described case. In his second supplement, he alleges the Subject Judge omitted from his report

and recommendation evidence that Complainant timely filed his charge with the Equal Employment Opportunity Commission. He attached documents to his second supplement.

Discussion

Judicial-Conduct Rule 4(b)(1) provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” The Commentary on Rule 4 explains the rationale for this rule as follows:

Rule 4(b)(1) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations “[d]irectly related to the merits of a decision or procedural ruling.” This exclusion preserves the independence of judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, rulings, findings, report, and orders in the above-described case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant’s

remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive, was biased, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge